

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

IN RE:) CASE NO.: 3:14-bk-00581
MICHAEL RYAN PROFFITT) CHAPTER 13
LAURA ELIZABETH PROFFITT)
Debtors.)

MOTION FOR SANCTIONS AGAINST PHH MORTGAGE

COMES NOW, the Debtors, by and through the undersigned attorney, moves this Court for sanctions against PHH MORTGAGE, (hereinafter “PHH”) for failing to comply with this Court’s mediation order (hereinafter “ORDER”) entered on March 4, 2014, and more specifically, failing to mediate in good faith, and in support would state the following:

1. Debtors filed their petition for Chapter 13 bankruptcy on February 7, 2014.
2. The Court entered its mortgage modification mediation order on March 4, 2014 regarding the property located at 3552 Bay Island Circle, Jacksonville Beach, Florida 32250 [DE 21].
3. There was a delay by counsel in reaching out to Debtor’s firm to arrange mediation.
4. Multiple modification application packages have been sent to PHH through their attorney.
5. On July 22, 2014, a completed package was emailed to counsel for PHH.
6. The missing items were supplied and mediation was scheduled for September 19, 2014.
7. On or about August 19, 2014, the missing items requested by PHH were emailed to counsel for PHH.
8. No additional items were requested during mediation on September 19, 2014.
9. A second mediation was scheduled for December 11, 2014.
10. On or around November 13, 2014, PHH mailed the debtors a letter indicating that PHH was no longer servicing their loan and that Real Time Resolutions, inc. has now taken over the servicing of this loan. Debtors’ counsel was not given such notification nor was a transfer of claim filed with the bankruptcy court.
11. Since mediation, PHH nor its counsel have requested additional documents for the modification review.

12. A decision on the application that has been pending and in PHH's possession has not been made.

13. Debtors assert PHH did not mediation in good faith pursuant to Section 18 of the Mediation Order entered on March 4, 2014.

14. More than likely, Debtors will have to incur additional time and costs to pursue a modification application with Real Time Resolutions, Inc.

WHEREFORE, the Debtor requests the court enter an order finding that PHH failed to mediation in good faith, and impose sanctions- including punitive damages and attorney's fees and costs, and any other relief this Court deems just and proper.

PARKER & DUFRESNE, P.A.

PARKER & DUFRESNE, P.A.
/s/Donald M. DuFresne

DONALD M. DUFRESNE
Fla Bar #802778
8777 San Jose Blvd., #301
Jacksonville, FL 32217
(904) 733-7766; Fax: (904) 733-2919
Attorney for Debtor(s)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to:

Aldridge Connors Fifteen Piedmont Center 3575 Piedmont Road, N.E. Suite 500 Atlanta, GA 30305 Attorney for PHH	
---	--

Douglas W. Neway Chapter 13 Trustee (served electronically)	Office of the United States Trustee 400 W. Washington Street, Suite 1100 Orlando, Florida 32801 (served electronically)

either electronically to all interested parties via the CM/ECF system, facsimile transmission and/or U.S. Mail, Postage prepaid on December 10, 2014.

PARKER & DUFRESNE, P.A.

/s/Donald M. DuFresne

DONALD M. DUFRESNE
Fla Bar #802778
8777 San Jose Blvd., #301
Jacksonville, FL 32217
(904) 733-7766; Fax: (904) 733-2919
Attorney for Debtor(s)